

Message Text

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46

ACTION ARA-10

INFO OCT-01 ISO-00 PM-03 NSC-05 SP-02 SS-15 L-03 OMB-01

CIAE-00 INR-07 NSAE-00 DODE-00 /047 W

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R 051314Z AUG 75

FM AMEMBASSY CARACAS

TO SECSTATE WASHDC 9685

C O N F I D E N T I A L CARACAS 7994

FOR ARA-DEPUTY ASSISTANT SECRETARY LUERS FROM THE AMBASSADOR

E.O. 11652: GDS

TAGS: MASS, VE

SUBJECT: FMS CREDIT FOR VENEZUELA

1. THE MILGRP COMMANDER AND I VISITED THE MINISTER OF DEFENSE THE MORNING OF AUG 1. WE EXPRESSED OUR REGRET OVER THE FAILURE OF THE NEGOTIATIONS FOR FY '75 FMS CREDIT AND ASKED FOR THE GENERAL'S VIEWS ON THE UNHAPPY EPISODE. HE SAID THE PROBLEM AROSE BECAUSE THE CONSTITUTION VENEZUELA SPECIFICALLY AND CATEGORICALLY LIMITS THE RESOLUTION OF DISPUTES TO THE NATIONAL COURTS OR TO APPROPRIATE INTERNATIONAL TRIBUNALS. WE ASKED IF THERE MIGHT NOT BE SOME ROOM FOR VARYING INTERPRETATIONS. LEAL TORRES REPLIED THAT A NUMBER OF CONSTITUTIONAL PROVISIONS ARE OPEN TO DIFFERING INTERPRETATIONS, BUT NOT THIS ONE. ACCORDING TO HIM, THE INJUNCTION ON LITIGATION VENUES IS ABSOLUTE.

2. THE MINISTER SAID HE HAD BEEN PREPARED TO DROP FROM THE AGREEMENT ANY REFERENCE TO THE SUBJECT, AS HAD BEEN DONE IN THE PAST, BUT UNDERSTOOD WE WERE UNABLE TO PROCEED IN THAT FASHION BECAUSE OF RIGOROUS REGULATIONS. HE COMMENTED THAT HE AND I SEEMED TO HAVE BEEN TRAPPED BY LEGAL DECISIONS OVER WHICH WE HAD NO CONTROL. HE ACCEPTED WITH HIS USUAL GRACIOUSNESS MY ASSURANCE OF OUR CONTINUING DESIRE TO COOPERATE WITH THE VENEZUELAN ARMED FORCES. THE SUBJECT OF FUTURE FMS CREDITS DID NOT ARISE.

3. COMMENT: IT IS DOUBTFUL THAT THE MINISTER HAS GONE INTO THE
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CONSTITUTIONAL ISSUE IN ANY DETAIL. WE THINK THERE IS ROOM FOR

INTERPRETIVE MANEUVER THERE, BUT CAN UNDERSTAND WHY LEAL TORRES
WOULD REGARD THE COMPTROLLER'S OPINION AS HAVING CLOSED THE
MATTER. HE CANNOT BE EXPECTED TO RISK UNPLEASANT POLITICAL PROBLEMS
BY REOPENING IT.

4. A NEW MINISTER, IF THERE IS ONE NEXT JAN, COULD CONCEIVABLY
WANT TO TAKE A LOOK AT THE ISSUE. BUT WE THINK IT MOST UNLIKELY
THAT ANY MINISTER WOULD CONTEMPLATE DEFYING THE COMPTROLLER'S
OPINION--AND WE ARE UNABLE TO ENVISAGE THE CIRCUMSTANCES IN
WHICH THAT LATTER GENTLEMAN WOULD ALTER THE OPINION HE HAS NOW
RECORDED FOR POSTERITY.

5. IS THERE NO POSSIBILITY THAT THE FFB WOULD AGREE TO SUBMIT
DISPUTES TO INTERNATIONAL ARBITRATION?
SHLAUDEMAN

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NNN

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Margaret P. Grafeld
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